

Senate Bill 318

By: Senator Chance of the 16th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to the  
2 general provisions of courts, so as to change certain provisions relating to requesting judicial  
3 assistance from other courts; to define a term; to provide for related matters; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to the general  
8 provisions of courts, is amended by revising Code Section 15-1-9.1, relating to requesting  
9 judicial assistance from other courts, as follows:

10 "15-1-9.1.

11 (a) As used in this Code section, the term:

12 (1) 'Administrative judge' means a superior court judge or senior judge of the superior  
13 court elected within an administrative district as provided by Code Section 15-5-4.

14 (2) 'Chief judge' means the judge most senior in time of service or, if applicable, the  
15 judge to whom the administrative duties of a court have been assigned.

16 (3) 'Judge' includes Justices, judges, senior judges, magistrates, and every other such  
17 judicial officer of whatever name existing or created.

18 (4) 'Part-time judge' means a judge who serves on a continuing or periodic basis but who  
19 is permitted by law to devote time to some other profession or occupation and whose  
20 compensation for that reason is less than that of a full-time judge.

21 (5) 'Retired judge' means a judge who is receiving benefits under Title 47.

22 (b)(1) If assistance is needed from a judge outside of the county, a superior court judge  
23 of this state or the chief judge of a class of courts other than an appellate court may make  
24 a request for judicial assistance in the court served by said requesting judge to the

1 administrative judge of the judicial administrative district in which said requesting  
2 judge's court is located, if any of the following circumstances arises:

3 (A) A judge of the requesting court is disqualified for any cause from presiding in any  
4 matter pending before the court;

5 (B) A judge of the requesting court is unable to preside because of disability, illness,  
6 or absence; or

7 (C) A majority of the judges of the requesting court determines that the business of the  
8 court requires the temporary assistance of an additional judge or additional judges.

9 (2) If assistance is needed from a judge from the same county circuit, the chief judge of  
10 any court within such county circuit of this state may make a written request for  
11 assistance to the chief judge of any other court within such county circuit, a senior judge  
12 of the superior court, a retired judge, or a judge emeritus of any court within the county  
13 circuit. The request by the chief judge may be made if one of the following circumstances  
14 arises:

15 (A) A judge of the requesting court is disqualified for any cause from presiding in any  
16 matter pending before the court;

17 (B) A judge of the requesting court is unable to preside because of disability, illness,  
18 or absence;

19 (C) A majority of the judges of the requesting court determines that the business of the  
20 court requires the temporary assistance of an additional judge or additional judges; or

21 (D) A majority of the judges of the requesting court determines that the business of the  
22 court requires the permanent assistance of an additional judge or additional judges. If  
23 the requesting court is a state or superior court, the assisting judge or assisting judges  
24 may hear and decide matters otherwise in the exclusive jurisdiction of the state or  
25 superior court without regard to time, type of case, or limitations contained in the rules  
26 of such state or superior court; provided, however, that a chief magistrate or magistrate  
27 may serve as a permanent assisting judge only in counties having a population of  
28 180,000 or more according to the United States decennial census of 1990 or any future  
29 such census.

30 (3) When a petition for habeas corpus is filed challenging for the first time state court  
31 proceedings resulting in a death sentence, the clerk of the superior court acting on behalf  
32 of the chief judge shall make a request for judicial assistance to the president of The  
33 Council of Superior Court Judges of Georgia. Within 30 days of receipt of a request for  
34 judicial assistance, the president of The Council of Superior Court Judges of Georgia  
35 shall, under guidelines promulgated by the executive committee of said council, assign  
36 the case to a judge of a circuit other than the circuit in which the conviction and sentence  
37 were imposed.

(4) In petitions under this article challenging for a second or subsequent time a state court proceeding resulting in a death sentence, the chief judge of the court where the petition is filed may make a request for judicial assistance to the president of The Council of Superior Court Judges of Georgia upon certifying that the business of the court will be impaired unless assistance is obtained. Within 30 days of receipt of a request for judicial assistance, the president of The Council of Superior Court Judges of Georgia shall, under guidelines promulgated by the executive committee of said council, assign the case to a judge of a circuit other than the circuit in which the conviction and sentence were imposed.

(c) A chief judge of a requesting court or assisting court shall be presumed to act with the consent of all judges of the court. However, if a judge of a court shall insist, all judges of that court shall vote upon whether to ratify the action taken by the chief judge under this Code section.

(d)(1) If the chief judge is unable because of disability, illness, or absence to make a request for assistance, a majority of the judges of the court may make such a request for him or her. If a court is served by only one judge who, ~~himself~~, is unable to make a request because of disability, illness, or absence, or when the judge or judges of the court fail to procure assistance in the event of the absence, illness, disability, or disqualification of one of the judges, and it is satisfactorily made to appear to the Governor that any regular or special term of any court will not be held or continued in session because of such failure to procure assistance, the Governor shall request the administrative judge of the judicial administrative district within which district the court in need of assistance lies to assign another judge to hold the regular or special term of such court. However, no judge shall be named or assigned to hold court when the time fixed by law for holding the term of court conflicts with the holding of any regular or special term already called by ~~him~~ such judge in his or her own court.

(2) If a vacancy shall occur in the judicial office for which the Governor has had to request assistance from the administrative judge of the judicial administrative district in a situation wherein the conditions exist as provided in paragraph (1) of this subsection, the Governor may appoint a judge of a court of record as an interim judge to fill temporarily such vacancy until the vacancy is permanently filled as provided by law.

(e) The administrative judge of the district receiving a request for assistance shall designate a judge to preside as requested. The designated judge may consent to preside in the requesting court provided he or she is otherwise qualified to serve as a judge in the requesting court. The qualifications of residency within a particular political or geographic subdivision of the state shall not apply to a designated judge. The designation shall be made in writing and delivered to the judge requesting assistance.

1 (f) The written designation shall identify the court in need of assistance, the county and  
2 circuit where located, the time period covered, the specific case or cases for which  
3 assistance is sought if applicable, and the reason that assistance is needed. The written  
4 designation shall be filed and recorded on the minutes of the clerk of the court requesting  
5 assistance. Any amendment to the designation shall be written, filed, and recorded as is the  
6 original designation.

7 (g) A judge rendering assistance in accordance with this Code section shall discharge all  
8 the duties and shall exercise all of the powers and authority of a judge of the court in which  
9 he or she is presiding.

10 (h) The governing authority responsible for funding the operation of the requesting court  
11 shall bear the expenses of the judge rendering assistance in accordance with this Code  
12 section, except that such judges presiding in the appellate or superior courts in accordance  
13 with this Code section shall be compensated by state funds appropriated or otherwise  
14 available for the operation of these courts.

15 (i) Senior judges of the superior courts, senior judges appointed pursuant to Code Section  
16 15-1-9.3, part-time judges, and retired judges or judges emeritus of the state courts shall  
17 receive the amount of compensation and payment for expenses as provided by Code  
18 Section 15-1-9.2. All other judges rendering assistance in accordance with this Code  
19 section shall be entitled to actual travel and lodging expenses but shall not be entitled to  
20 any additional compensation for this assistance.

21 (j) The court reporter, support personnel, facilities, equipment, and supplies necessary to  
22 perform the duties requested shall be provided to any judge rendering assistance in  
23 accordance with this Code section by the requesting court, unless otherwise agreed.

24 (k) In the event that the judge requesting assistance is a superior court judge other than a  
25 chief judge, then a copy of the assignment shall also be filed with the chief judge of the  
26 court to be assisted.

27 (l) As an alternative to the other provisions of this Code section, any judge other than a  
28 superior court judge may, under the circumstances described in subparagraph (b)(1)(B) or  
29 (b)(1)(C) of this Code section, request judicial assistance from any other judge who is not  
30 a superior court judge and who is otherwise qualified; and the judge so requested may  
31 agree to so serve. When one judge serves in the court of another pursuant to this  
32 subsection, a written designation by the requesting judge shall be filed and recorded on the  
33 minutes in the same general manner as provided for in subsection (f) of this Code section  
34 and the provisions of subsection (h) of this Code section shall apply with respect to the  
35 payment of expenses. The provisions of this subsection are supplementary to the provisions  
36 of the other subsections of this Code section.

1 (m) This Code section shall be supplementary to other laws relating to the authorization  
2 of replacement judges."

3 **SECTION 2.**

4 All laws and parts of laws in conflict with this Act are repealed.